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Technical assistance and capacity-building

Stand-alone high-level interactive dialogue on assistance to Somalia in the field of human rights

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council decision 23/114 on assistance to Somalia in the field of human rights, in which the Council requested the Office of the United Nations High Commissioner for Human Rights to provide a summary of the key conclusions of the stand-alone high-level interactive dialogue that was held on 24 September 2013. The report also includes recommendations on finalizing and implementing the post-transition human rights road map at the national and subnational levels in Somalia and on the realization of human rights in Somalia.

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I. Introduction

1. In decision 23/114, adopted during its twenty-third session in June 2013, the Human Rights Council decided to hold a "stand-alone high-level interactive dialogue with the aim of exploring how all stakeholders can work effectively towards the finalization and implementation of the road map and the realization of human rights in Somalia". The interactive dialogue was held during the twenty-fourth session of the Council, on 24 September 2013.

2. The interactive dialogue was moderated by the President of the Human Rights Council, Remigiusz Henczel. The United Nations Deputy High Commissioner for Human Rights, Flavia Pansieri, made opening remarks, which were followed by presentations by the panellists, namely Abdi Farah Shirdon, Prime Minister of Somalia; Shamsul Bari, Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia; Nicholas Kay, Special Representative of the Secretary-General for Somalia and Head of the United Nations Assistance Mission in Somalia (UNSOM); Mahamat Saleh Annadif, Special Representative of the Chairperson of the African Union Commission for Somalia and Head of the African Union Mission in Somalia (AMISOM); Zahra Nur, National Coordinator (Somalia), Forum for African Women Educationalists; Fartuun Adan, Executive Director, Elman Peace and Human Rights Centre; and Mohamed Abdi Mohamed, Director General of Horn Cable TV.

3. The present summary was prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Human Rights Council decision 23/114.

II. Statement by the United Nations Deputy High Commissioner for Human Rights and contributions by panellists

4. In her opening statement, the United Nations Deputy High Commissioner for Human Rights noted that despite positive developments on the political front since the stand-alone interactive dialogue on Somalia that had taken place in September 2010, the human rights situation in the country continued to be very challenging. The conducting of hostilities, particularly in parts of south and central Somalia, continued to impact negatively on civilians, who were often caught in the crossfire between the parties to the conflict. The Deputy High Commissioner pointed out that human rights defenders and journalists continued to be the targets of assassination. The situation in terms of economic, social and cultural rights remained a matter for concern; access to education and to services such as health was very limited. The high rates of sexual and gender-based violence also remained a concern. The Deputy High Commissioner added that continued attacks by Al-Shabaab were a reminder that much work remained to be done in the fight to ensure security for all people living in Somalia. She noted that addressing impunity and violence and ensuring protection of human rights was key to building peace. Regarding the road map, she urged that there should be clear benchmarks, with timelines for implementation, and identification of implementing agencies for each benchmark. For the road map to be a success, the Government should endeavour to consult on its implementation with all the stakeholders, nationwide, through an inclusive and participatory process, and should regularly report back on efforts to implement it. The Deputy High Commissioner stated that OHCHR would work with UNSOM to support the Government of Somalia in upholding its commitments made under the universal periodic review and as a signatory to a number of international human rights instruments.

5. The Prime Minister of Somalia noted that while Al-Shabaab had been weakened, the recent attacks on the Westgate shopping mall in Kenya were a reminder that there were still challenges in ensuring security in Somalia and in the region. He stated that a military solution to the situation in Somalia was not enough, and that all areas had to be addressed, including establishing the rule of law, revitalizing the economy, and providing education and employment opportunities for young people. The Prime Minister noted that amidst the challenges facing Somalia, his Government had made progress in the area of promoting and protecting human rights, for example by promoting participation rights for minorities via the abolishment of the 4.5 clan quota system, and by promoting women's political participation including via appointments to key government positions. He noted that a bill to establish a national human rights commission had been drafted, and that the Government was in the process of implementing the recommendations from the universal periodic review of Somalia. He reported that a task force had been established to investigate attacks against journalists and killings of journalists. With regard to sexual and gender-based violence, he noted that the Government maintained a zero-tolerance policy. He added that the practice of female genital mutilation was not condoned under Islam, and as such, his Government would take steps to eradicate it. In order to address the question of impunity, efforts were under way to strengthen rule-of-law institutions and to tackle corruption. The Government had set up an initiative aimed at providing education for all Somalis, and planned to collaborate with the International Labour Organization to increase employment opportunities. The Prime Minister recognized the critical role that civil society and the diaspora were playing in reconstructing the country. He commended the Independent Expert on the situation of human rights in Somalia on his efforts and his contribution to initiating the development of the road map, and reiterated that his Government was committed to undertaking a nationwide consultation when finalizing the road map. In conclusion, he expressed his Government's gratitude to AMISOM for its support in fighting Al-Shabaab, and to UNSOM for providing support towards building and strengthening the various State institutions.

6. The Independent Expert on the situation of human rights in Somalia stated that the country had reached a critical juncture and was ready to move forward, but noted that in order to do so effectively, it would need the combined and coordinated support of the international community and civil society actors. He stated that reconstruction and reconciliation would be advanced by the establishment of a solid human rights protection system that would have the active support of the people of Somalia. He welcomed the adoption of the road map, and the decision by the Government to establish a human rights ministry to coordinate proper implementation of the road map. However, he reminded all present that more than twenty years of armed conflict had destroyed the social fabric and the basic social institutions that had kept Somalia together in the past. This had led to the creation of a deep-rooted culture of impunity and wanton disregard of authority, illustrated by the recent handling of some cases of alleged rape. The Independent Expert acknowledged that UNSOM had a strong human rights mandate, and urged close cooperation between UNSOM and OHCHR in supporting the implementation of the road map. He proposed that OHCHR should, in the future, consider a more dedicated, stand-alone role for the promotion and protection of human rights in Somalia.

7. The Special Representative of the Secretary-General for Somalia and Head of UNSOM explained the mandate of UNSOM, particularly as it related to human rights, and summarized the efforts made to establish regional offices throughout the country. He stated that UNSOM would work together with the United Nations agencies in applying an integrated approach to addressing the human rights challenges in Somalia. He also said that UNSOM was expected to collaborate with AMISOM to provide policy advice to the Government on peace-building and state-building. In addition, UNSOM had started work on ensuring implementation of the human rights due diligence policy on United Nations

support to non-United Nations security forces. He said that UNSOM would continue to collaborate with the Independent Expert, and noted that the road map could lay the foundation for improving the protection and promotion of human rights in Somalia. He advised that implementation of the road map would require the joint efforts of the Government, the Independent Expert, civil society actors, UNSOM, and the United Nations agencies, as well as bilateral and multilateral partners.

8. The Special Representative of the Chairperson of the African Union Commission for Somalia and Head of AMISOM noted that while AMISOM's mandate was predominantly of a military or security nature, it also had a civilian component. He stated that AMISOM had taken significant steps to ensure that military operations were conducted with full respect for international humanitarian law, and that collateral damage was kept to a minimum. He particularly referred to the adoption in 2011 of the indirect fire policy, and to the pre-deployment training which included the human rights due diligence policy and the United Nations zero-tolerance policy on sexual exploitation and abuse. He also mentioned the African Union's protection of civilians strategy adopted in March 2013, and the civilian casualty tracking, analysis and response cell to be established in accordance with Security Council resolutions 2036 (2012) and 2093 (2013). The Special Representative of the Chairperson of the African Union Commission for Somalia outlined the various areas of cooperation with the Somali Government, and added that AMISOM was providing humanitarian assistance to the population, including rebuilding schools, rehabilitating health infrastructure, providing free medical treatment and supplying medicines. In conclusion, he noted that much remained to be done to advance human rights in Somalia, and hoped that the road map would provide the template for ensuring promotion and protection of human rights in Somalia.

9. The National Coordinator, for Somalia, of the Forum for African Women Educationalists considered that the persistence of a wide range of human rights abuses and violations in Somalia was mainly due to weak governance structures and institutions. Clan domination in positions of governance continued to undermine the democratization process in the country. In addition, slow development and a weak national economic base had resulted in massive unemployment, with youths illegally immigrating into other countries, and opting to join pirates or militant groups such as Al-Shabaab.

10. The Executive Director of the Elman Peace and Human Rights Centre stated that the incidence of sexual and gender-based violence, mainly targeting women and children, was very high in Somalia. She reported that, often, civil society organizations criticized the Government so as to motivate it to improve the human rights situation. Civil society was willing to work with the Government to rebuild the country. She urged the Government to ensure security for civil society organizations and human rights defenders, as well as other vulnerable groups.

11. The Director General of Horn Cable TV stated that freedom of expression and media freedom were severely curtailed in Somalia. Journalism was a dangerous occupation, as journalists continued to be the targets of attacks and killings, especially by Al-Shabaab. Since the interactive dialogue on Somalia that had taken place in September 2010, 28 media professionals had been killed in the country. He noted that the culture of impunity exacerbated the situation, and called on the Government to ensure that perpetrators of human rights violations were held accountable. He noted that some of the provisions of the draft media law would violate principles of freedom of expression, and urged the Government to address the issue.

III. Summary of interventions at plenary discussions

12. During the plenary discussions, the following delegations took the floor: Australia, Bahrain, Denmark, Djibouti, Egypt, Eritrea, Ethiopia, the European Union, France, Gabon (on behalf of the African Group), Ireland, Italy, Japan, Kenya, Kuwait, Maldives, Mexico, Morocco, Norway, Sierra Leone, the State of Palestine (on behalf of the Arab Group), the Sudan, Switzerland, Turkey, the United Arab Emirates, the United Kingdom and the United States. The following non-governmental organizations contributed to the discussion: the East and Horn of Africa Human Rights Defenders Project, Human Rights Watch, the International Development Law Organization, International Educational Development, Inc., and the International Federation of Journalists. The Organization of Islamic Cooperation also took the floor, as an intergovernmental organization.

13. Many delegations noted that the convening of the interactive dialogue indicated the importance placed by the international community on the stability and prosperity of Somalia. It was also seen as a reaffirmation of the determination of the international community, and of the renewed commitment of all stakeholders, to support the Government of Somalia in its efforts towards peace-building, stabilization and economic development. Several delegations welcomed the continued engagement of the Independent Expert, and his valuable support and assistance to Somalia, and took note of the decision by the Security Council to upgrade the engagement of the United Nations in Somalia via the establishment of a political mission in-country.

14. Many delegations commended the Government of Somalia on its positive and constructive engagement with United Nations human rights mechanisms, and on its robust engagement with the international community. The delegations welcomed the adoption of a post-transition human rights road map, noting that this demonstrated the Government's commitment and political will to institutionalize respect for human rights. The announcement of the decision to establish a ministry of human rights and to designate 27 August as national human rights day in Somalia was also welcomed. Delegations acknowledged the steps taken by the Government of Somalia to improve the human rights situation, such as introducing key human rights legislation into Parliament — including on establishing a national human rights commission, an Ombudsman's office, a judicial service commission, and a constitutional court, as well as adopting and initiating the implementation of a national stabilization plan.

15. Several delegations pointed out, however, that despite some positive developments in the area of human rights, there were still serious challenges. The main challenges were to rebuild state institutions based on the rule of law and respect for human rights, and to provide basic services such as health and education. Many delegations expressed concern about the situation of internally displaced persons and refugees, the high rates of sexual and gender-based violence, and the continuing targeted attacks and killing of human rights defenders and journalists. Impunity for human rights violations was also raised as a major concern.

16. With respect to the security situation, many delegations stated that this remained of serious concern, and noted that ending the conflict in Somalia was not only crucial for ensuring the stability of the Government but also for fostering global security. Some delegations stated that terrorism remained a major threat to establishing an environment conducive to the advancement of human rights, and recommended that addressing the political and security situation in Somalia should be done in parallel with ensuring the promotion and protection of human rights. While condemning the terrorist attack on the Westgate shopping mall in Nairobi, many delegations stressed that it reinforced the need for the international community to further support the Government of Somalia to consolidate peace and stability. They stated that the security situation in Somalia could not

be seen in isolation, but rather needed to be seen in the context of its impact across the entire horn of Africa.

IV. Conclusion

17. The panellists made concluding remarks in response to some of the comments and questions raised during the plenary discussion. The Prime Minister outlined the Government's priorities as follows: improving security and the justice system; proper management of public finances; and provision of basic services. He stated that his Government was committed to the institutionalization as well as to the promotion and protection of human rights. In that regard, he emphasized that implementation of the road map was critical, and that the international community could support the Government by providing relevant expertise and capacity-building. He explained that an independent commission would be set up to monitor the situation of internally displaced persons. The Prime Minister urged the international community to honour its pledges contained in the Somali Compact, the implementation of which would have an impact on the human rights of Somalis.

18. The Special Representative of the Secretary-General for Somalia pointed out that the support expressed for the Government and for the United Nations agencies in Somalia had to be converted into concrete action on the ground. There was a need to focus on a limited number of priorities in the road map if tangible results were to be achieved, and the Government of Somalia should be open to strategic advice from UNSOM and the United Nations agencies. He also advised the Government of the necessity of heeding the voice of civil society. He cautioned that the international community had to be realistic about what could be achieved, given the very challenging situation.

19. The Special Representative of the Chairperson of the African Union Commission for Somalia noted that while all agreed with the diagnosis of the challenges that the country faced, there was a difference in approach with regard to tackling the problem. He outlined the mechanisms that AMISOM had put in place to address some of the human rights concerns, which included a monitoring and investigation mechanism to address concerns about protection of civilians, and a prevention, response and awareness mechanism on sexual and gender-based violence. AMISOM was also working with civil society organizations to provide various humanitarian services to the population.

20. The Independent Expert was of the view that the road map needed to be more comprehensive, and that it should prioritize the human rights challenges that needed to be addressed in the immediate term and should provide appropriate measures and time frames for implementation. That would assist the international community to provide targeted support.

21. Ms. Nur reminded the Government that ownership of the road map by all Somalis could only be ensured if there was wide consultation on it, including in the regions such as Puntland and Galmudug and among the diaspora.

22. Ms. Adan emphasized that the promotion and protection of women's human rights should not be politicized. She stressed that the Government should ensure that commitments made at various forums to protect the rights of women were honoured and implemented, particularly in order to ensure accountability for sexual and gender-based violence.

V. Recommendations

23. **To the Government of Somalia:**

(a) Consult widely with all stakeholders, including civil society and regional administrations, through an inclusive and participatory process when finalizing and implementing the road map, and regularly report back on progress made in implementing the road map;

(b) Provide the necessary human and financial resources to implement the road map;

(c) Define a strategy and specific actions to address the human rights concerns spelt out in the road map;

(d) Utilize the technical assistance offered by the Independent Expert, OHCHR and the international community to build a strong foundation of respect for human rights law based on international norms;

(e) Impose a moratorium on the death penalty;

(f) Ratify key human rights treaties, priority being given to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women;

(g) Establish a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);

(h) Mainstream human rights into all areas, and ensure that proposed legislation and newly established institutions are in concordance with the international human rights framework;

(i) Ensure the participation of women in decision-making processes at all levels;

(j) Strengthen the capacity of public institutions to address human rights violations, and allocate adequate resources to rebuilding the judicial system so that it brings to justice the perpetrators of violations and dispenses justice;

(k) Ensure accountability for past human rights violations, with special attention to the rights of the most vulnerable groups;

(l) Investigate serious allegations of human rights violations and abuses such as extrajudicial killings, sexual violence and violence against children, and ensure that alleged perpetrators are brought to justice;

(m) Ensure that sexual violence can be prosecuted without risk to victims, service providers and journalists;

(n) Conduct an urgent and effective campaign against female genital mutilation;

(o) Ensure full realization of the rights to freedom of expression and peaceful assembly and association; and pay special attention to ensuring a safe and enabling environment for civil society, including human rights defenders and the media, to conduct their activities;

(p) Establish vetting procedures for the armed forces and police, and establish an independent mechanism to systematically document abuses by all sides to the conflict in order to ensure accountability;

(q) Intensify political dialogue between the federal and local authorities to ensure a balanced distribution of powers and competencies;

(r) Foster the exercise of alternative political views, especially in light of the upcoming 2016 elections; and

(s) Address poverty and food insecurity — including by stockpiling appropriate rations and establishing distribution avenues, due to the risks of drought and crop failure, consulting with institutions that have been successful in reclaiming both depleted agricultural lands and water resources, and reforming agricultural methods.

24. **To the United Nations:**

(a) Ensure that monitoring and regular public reporting by the human rights component of UNSOM is prioritized, and that qualified staff are recruited without delay; and

(b) Establish a commission of inquiry or a comparable appropriate mechanism to document serious crimes committed in Somalia in violation of international human rights law and international humanitarian law and recommend measures to improve accountability.

25. **To the international community:**

(a) Provide the necessary support to the Government of Somalia to ensure that the road map's substantial human- and financial-resource requirements are met;

(b) Ensure a focused and mainstreamed human rights-based approach in all priority sectors, and address serious allegations of human rights violations;

(c) Support the establishment of an independent and impartial commission of inquiry to investigate and document serious crimes against journalists and recommend measures to improve accountability;

(d) Provide necessary support to the Government of Somalia to fulfil its domestic and international commitments to enable Somalis to live in dignity and prosperity;

(e) Support the Intergovernmental Authority on Development in developing a framework for finding a solution to the security situation in Somalia;

(f) Assist the Government of Somalia in its peace and consolidation efforts and in establishing essential public services in all regional administrations; and

(g) Collaborate in a concrete way to ensure that the commitments and pledges made at the various conferences convened on Somalia are realized.